

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 funds to do it. You know, to me, that's an unfunded
2 mandate in really telling Texans that are looking at
3 this debate on computer and that are looking at this
4 bill online, that this \$2 million fiscal note that
5 you've provided is only an impact to the state, not the
6 counties, not each county. Is that correct?

7 MS. MCGEEHAN: That's correct.

8 SEN. GALLEGOS: Okay. Thank you very
9 much.

10 CHAIRMAN DUNCAN: Thank you, Senator
11 Gallegos.

12 Senator Van de Putte.

13 SEN. VAN de PUTTE: Thank you,
14 Mr. Chairman.

15 Ms. McGeehan, you've been an excellent
16 resource witness for us, and there are just two
17 questions that I need to ask to get into the record with
18 regard to a survey.

19 Does Texas participate in the Election
20 Administration and Voting Survey?

21 MS. MCGEEHAN: Yes.

22 SEN. VAN de PUTTE: When was this survey
23 completed, the last survey was completed? Was it after
24 the 2008 election?

25 MS. MCGEEHAN: Yes.

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1 SEN. VAN de PUTTE: So we have that survey
2 available?

3 MS. MCGEEHAN: Yes.

4 SEN. VAN de PUTTE: Okay. The question
5 that I have goes to the data on the survey that goes, I
6 think, to all -- and this is the federal commission --
7 dealing with the number of provisional ballots in the
8 State of Texas. As far as you know, how do we rank in
9 the number of provisional ballots that are used with
10 regard to our voting population?

11 MS. MCGEEHAN: My general recollection is
12 that as far as the total number cast, we're on the lower
13 end. But as far as the number of provisional votes,
14 meaning that not as many people cast a provisional vote
15 in Texas as in some other states, but as far as the
16 number of provisional ballots that are counted --

17 SEN. VAN de PUTTE: Yes.

18 MS. MCGEEHAN: -- we have one of the lower
19 rates among the states as to the number of provisional
20 ballots that are counted. It is my understanding that
21 in the state chart, that we have very high rejection
22 provisional ballot rates. So, in other words, even
23 right now under this system that we have, that the
24 number of provisional ballots that are cast, we have
25 some of the highest rejection rates for those

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1 provisional ballots in all of the country.

2 MS. MCGEEHAN: Yes.

3 SEN. VAN de PUTTE: At least that's what I
4 understand from the report.

5 MS. MCGEEHAN: That's correct.

6 SEN. VAN de PUTTE: Thank you. I know
7 that we have the datasets that were put in for 2008, and
8 so hopefully that we will be able to get this and make
9 sure that as we monitor the bill as it progresses and
10 the bill as it's implemented, we certainly don't need to
11 get to the bottom of the bottom of the bottom on
12 rejection of provisional ballots.

13 Thank you.

14 CHAIRMAN DUNCAN: Thank you, Senator Van
15 de Putte.

16 Senator Fraser.

17 SEN. FRASER: Thanks for being here today
18 and waiting all day.

19 I would like to clarify a point before you
20 sit down. I think you're aware this morning that we had
21 entered into a record -- the Secretary of State had a
22 letter addressing the \$2 million in the HAVA funds that
23 was put into the record. Our understanding, from
24 talking to the Secretary, the way the HAVA funds work,
25 and also her relationship with the county, that she has

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1 very broad discretion, assuming that the HAVA people
2 approve the using of this.

3 The \$3 million that you're talking about
4 in voter education, it doesn't necessarily mean that
5 it's three plus two. It's possible that there's an
6 overlap, that this two million could be folded in --
7 possibly into the three. But that discretion goes back
8 to the Secretary and they make a determination. Is that
9 not true?

10 MS. MCGEEHAN: That's exactly right.

11 SEN. FRASER: The other thing that I want
12 to clarify that there is a lot of discussion about, what
13 expense might go to Houston or what expense might go to
14 Bexar. Right now there is not clear, because I think
15 there's a lot of discussion going on of whether is that
16 Bexar expense or is that Secretary of State expense?

17 And we've got to determine what those
18 dollars are being spent on. Can we use Secretary of
19 State dollars and HAVA funds for that? So I think we're
20 premature of a county saying they've got "X" amount of
21 expenses, because it's possible that some of those
22 expenses flow from the Secretary of State's office, they
23 do not flow to the county, and they could handle that
24 with available people within the county and budget. Is
25 that not correct?

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1 MS. MCGEEHAN: That's correct. And just
2 an example of that, the cost that Bexar County put in
3 the fiscal note was -- I think their assumption was that
4 the certificate, the voter registration certificate
5 would have to increase in size. And I don't see
6 anything in the bill that requires that. And the
7 Secretary of State prescribes the form. So once that's
8 explained to the county, they might withdraw that
9 fiscal --

10 SEN. FRASER: I want to make sure that
11 that's clear, is that some of these assumptions are
12 possibly the-sky-is-falling assumptions that this is --
13 you know, this expense is going to be put on us, and I
14 don't think that's been discussed. And some of this, I
15 think, can be done by ruling of the Secretary of State,
16 directing them. And there is a real good chance that a
17 lot of these expenses go away that can be absorbed
18 through the Secretary of State. And that is correct,
19 isn't it?

20 MS. MCGEEHAN: Yes.

21 SEN. FRASER: Okay. I wanted to clear
22 that up. Thank you so much.

23 CHAIRMAN DUNCAN: The Chair recognizes
24 Senator Williams.

25 SEN. WILLIAMS: Thank you, Mr. Chairman.

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1 Ms. McGeehan, I want to add my thanks for
2 you hanging in here with us all day. There's about
3 three things that I would like to clear up with you. I
4 just want to understand unequivocally, HAVA funds can be
5 spent for things like training poll workers. Is that
6 correct?

7 MS. MCGEEHAN: Yes.

8 SEN. WILLIAMS: Okay. Thank you. Then
9 are you familiar with the voter ID bill that went
10 into -- in Utah recently? Have you taken a look at
11 that?

12 MS. MCGEEHAN: No, I have not looked at
13 that.

14 SEN. WILLIAMS: Okay. I just think it's
15 noteworthy, in light of Senator Van de Putte's comments,
16 because the Salt Lake County Clerk's office -- I've got
17 a news report here -- it's confirmed that there were
18 only 13 cases of voters having to pick up their
19 provisional ballots because they didn't have the proper
20 identification to vote when they put this new law into
21 effect. So it seems like it's had a great -- again, one
22 more state where the impact has been really minimal.
23 I'm not sure why we're having these other issues, but I
24 don't think its because of this.

25 And then finally I wanted to ask you, we

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1 had talked earlier about the project that I asked you to
2 do, to cross-reference the driver's licenses and the
3 voter registration. How is that coming along? I know I
4 only asked today, but I just --

5 MS. MCGEEHAN: Yes.

6 SEN. WILLIAMS: -- but what is a
7 reasonable expectation for us to get that information?

8 MS. MCGEEHAN: I would hope by the end of
9 the week. One thing that our IT folks and our election
10 experts are trying to struggle with is like matching
11 criteria --

12 SEN. WILLIAMS: Right.

13 MS. MCGEEHAN: -- you know, which we won't
14 have a TLD number, so we're working through some of
15 that. But I would expect by the end of the week we
16 would have it, if not earlier.

17 SEN. WILLIAMS: Okay. So do you need any
18 further direction from us? For instance, if we wanted
19 to target that universe of people that we know are out
20 there and maybe make a little extra effort to make sure
21 that they understood they were going to have a new
22 requirement when they went to vote as far as getting a
23 photo ID, if they didn't already have one -- and we've
24 identified who they are -- if we gave legislative intent
25 as a part of the bill tomorrow, would that be sufficient

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1 for you-all and the Secretary of State's office to take
2 that direction and know that that's something that we
3 wanted to have done in your training plans and voter
4 education plans?

5 MS. MCGEEHAN: Yes. I think if there were
6 a statement of legislative intent, we would certainly
7 follow that.

8 SEN. WILLIAMS: That would be sufficient.
9 Okay. Thank you very much. Appreciate your help.

10 CHAIRMAN DUNCAN: All right. Members, are
11 there any other questions of Ms. McGeehan?

12 Okay. The Chair hears none. Thank you,
13 Ms. McGeehan.

14 The Chair calls David Maxwell, Deputy
15 Director of Law Enforcement, Texas Attorney General's
16 Office.

17 Mr. Maxwell, would you approach and state
18 your name and who you represent, and then we'll open it
19 up for questions.

20 TESTIMONY BY DAVID MAXWELL

21 MR. MAXWELL: I have a written statement
22 that I would like to put into the record, sir.

23 CHAIRMAN DUNCAN: Well, we haven't been
24 doing that.

25 MR. MAXWELL: Okay.

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